

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 21, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN MANUEL LOZANO,

Defendant.

No. 4:21-CR-06040-MKD

ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
MOTION FOR DOWNWARD
DEPARTURE/VARIANCE

ECF No. 74

On February 20, 2024, the Court conducted the sentencing hearing in this matter and heard argument from counsel regarding Defendant's pending Motion for Downward Departure/Variance, ECF No. 74. The Court finds that the arguments raised in this Motion are properly characterized as a request for a variance, not a request for a departure. *See Irizarry v. United States*, 553 U.S. 708, 714 (2008) ("‘Departure’ is a term of art under the Guidelines and refers only to non-Guidelines sentences imposed under the framework set out in the Guidelines.”).

1 For the reasons stated on the record, the Court grants Defendant's request for
2 a downward variance, but denies Defendant's request for a downward departure.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Defendant's Motion for Downward Departure/Variance, **ECF No. 74**, is
5 **DENIED in part** and **GRANTED in part** in the manner explained
6 above and at the sentencing hearing.

7 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
8 this Order and provide copies to counsel, the United States Probation Office, and
9 the United States Marshals Service.

10 DATED February 21, 2024.

11 s/Mary K. Dimke
12 MARY K. DIMKE
13 UNITED STATES DISTRICT JUDGE
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